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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,412	04/21/2004	Timm J. Fenton	A36133 - 072841.0230	5967
21003	7590	12/20/2007		
BAKER BOTTS L.L.P. 30 ROCKEFELLER PLAZA 44TH FLOOR NEW YORK, NY 10112-4498			EXAMINER WEAVER, SUE A	
			ART UNIT 3781	PAPER NUMBER
			NOTIFICATION DATE 12/20/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DLNYDOCKET@BAKERBOTTS.COM

## Office Action Summary

Application No.

10/829,412

Applicant(s)

FENTON ET AL.

Examiner

Sue A. Weaver

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3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4-26 and 28-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-26, 28 and 30-36 is/are rejected.
- 7) ☒ Claim(s) 4 and 29 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 8-11, 14, 17, 19-21, 25, 33 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants are advised that there doesn't appear to be any relationship established between at least one first member protrusion now claimed in claims 1, 15 and 26 and the portion of a first member claimed in claims 10, 21 and 33 and a portion of the first member protrusion claimed in claim 19..

2. Claim 17 recites the limitation "at least one protrusion" in line 5. There is insufficient antecedent basis for this limitation in the claim.

3. Claims 14, 25 and 26 each recites the limitation "the other end" in line 3. There is insufficient antecedent basis for this limitation in the claim.

4. Claims 1, 2, 8, 12-16, 18, 19, 22-26, 31, 32 and 34-36 remain rejected under 35 U.S.C. 102(e) as being anticipated by Tsai '823, of record.

Member 84 is considered to define a joint locking member to the extent that it prevents the handle and tubular member for slipping laterally. Members 96, 98 and 104 define a first member external to the joint lock member at the upper end and extending at the upper end into the handle passageway, Note that the lower end particularly at 104 can be considered to be part of the protrusion with the portion at 104 defining at least a portion extending into the internal volume of the tubular member. Member 110 may be considered to be a second member or a second protrusion of the first member

depending on the combination claimed. It defines a portion which extends in the internal volume as claimed. The collar 108 slides between two positions as shown in Figure 4 and Figure 5.

5. Claims 5-7, 9-11, 17, 20, 21, 28, 30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 8 and 26 above, and further in view of Chen '423, of record.

To have provided retractable tubular member with a second member with a plurality of aligned protrusions to unlock the additional section would have been obvious in view of such teaching by Chen at 131.

6. Claims 4 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Applicant's arguments, see page 14 of the amendment, filed 10/10/07, with respect to the rejection of claim 4 in view of Lu have been fully considered and are persuasive. The rejection in view of Lu has been withdrawn. Claims 3 and 27 have been canceled

8. Applicant's arguments filed 10/10/07 have been fully considered but they are not persuasive. Contrary to applicants arguments the claims do not negate a portion of the first member protrusion which is always in the internal volume or set forth a first member protrusion which is only in the passageway in the first position as the claims are now set forth. Since the tubular member of Tsai encompasses multiple sections

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and Chen also teaches locking means for a multiple section tubular member they are analogous.

9. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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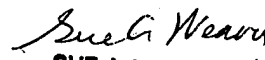
Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Weaver whose telephone number is (571) 272-4548. The examiner can normally be reached on Tuesday-Friday (5:30-4).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor is Anthony Stashick\_. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SW

  
**SUE A. WEAVER**  
**PRIMARY EXAMINER**  
**GROUP 3700**